

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA
:
- v. -
:
KATERINA ARVANITAKIS,
:
Defendant.
:
----- X

STIPULATION AND ORDER

S1 15 Cr. 457 (KPF)

KATHERINE POLK FAILLA, District Judge:

WHEREAS, on or about May 3, 2017, KATERINA ARVANITAKIS (the “Defendant”) was charged in a five-count Superseding Indictment, S1 15 Cr. 457 (KPF) (the “Indictment”), with conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Count One); wire fraud, in violation of Title 18, United States Code, Section 1343 and 2 (Count Two); conspiracy to commit bankruptcy fraud and to make false oaths and claims in bankruptcy, in violation of Title 18, United States Code, Section 371 (Count Three); aggravated identity theft, in violation of Title 18, United States Code, Section 1028A(a)(1), 1028A(c)(5), and 2 (Count Four); an conspiracy to launder money, in violation of Title 18, United States Code, Section 1956(h) (Count Five) (D.E. 70);

WHEREAS, the Indictment included a forfeiture allegation as to Counts One through Three of the Indictment, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(c) and Title 28, United States Code, Section 2461, of all property, real and personal, which constitutes and is derived from proceeds traceable to the offenses alleged in Counts One through Three of the Indictment, including but not limited to a sum

of money in United States currency representing the amount of proceeds traceable to the commission of the offenses charged in Counts One through Three of the Indictment;

WHEREAS, on or about May 15, 2017, the defendant pled guilty to Count Two of the Indictment, pursuant to an agreement with the Government, wherein the defendant admitted to the forfeiture allegation with respect to Count Two and agreed to forfeit, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section, 2461, all property, real and personal, which constitutes or is derived from proceeds traceable to the offense set forth in Count Two of the Indictment;

WHEREAS, on or about March 20, 2018, this Court entered an Amended Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment (the “Order of Forfeiture”), which: (i) imposed a money judgment against the Defendant, in the amount of \$1,285,393.00 in United States currency, representing the amount of proceeds traceable to the commission of the offense charged in Count Two of the Indictment; and (ii) ordered the forfeiture to the United States of all of the Defendant’s right, title and interest in: United States currency in the amount of \$450,000.00 in TD Bank Account No. 427-4034051 held in the name of CSH Ventures LLC Settlement Fund, Gordon & Haffner, LLP, Attorney Trust Account (the “Specific Property”) (D.E. 166);

WHEREAS, on or about May 24, 2018 Paul Bibbo and Nadine Bibbo née Lugo (“Bibbo Petitioners”) filed a verified petition with the Court asserting their sole right, title and interest in the Specific Property and requesting that the Specific Property be excluded from forfeiture to the Government (the “Bibbo Petition”) (D.E. 176);

WHEREAS, on or about May 30, 2018 Gordon & Haffner, LLP (“G&H”) by Steven R. Haffner, a partner, also filed a petition with the Court (the “G&H Petition”), asserting

an ownership interest in \$60,000 in United States currency of the Specific Property (the “Claimed Funds”) and requesting remission and mitigation of the Order of Forfeiture in the amount of the Claimed Funds (D.E. 177);

WHEREAS, on or about July 13, 2018 the Government filed a motion to dismiss the G&H Petition (D.E. 183-84);

WHEREAS, on or about November 5, 2018 the Court granted the Government’s motion to dismiss the G&H Petition;

WHEREAS, pursuant to Title 21, United States Code, Section 853(n)(2), the statutorily allowable period for filing a claim to the Specific Property closed on May 21, 2018, and no claims other than the pending Bibbo Petition and the dismissed G&H Petition have been filed with the Court;

WHEREAS, G&H appealed the dismissal of the G&H Petition to the Second Circuit Court of Appeals;

WHEREAS, on or about December 17, 2019, the Court entered a Stipulation and Order that permitted the release of the Specific Property, minus the Claimed Funds, to the Bibbo Petitioners;

WHEREAS, on or about March 19, 2020, the Second Circuit issued the mandate in the appeal filed by G&H, in light of the stipulation filed by G&H and the Government withdrawing the appeal pursuant to Federal Rule of Appellate Procedure 42;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Geoffrey S. Berman, United States Attorney, Assistant United States Attorneys, Katherine Reilly and Noah Solowiejczyk, of counsel, and the Bibbo Petitioners and their counsel, Michael Manoussos, Esq., that:

1. The Government hereby recognizes that the Bibbo Petitioners hold a right, title and interest in the Specific Property superior to any right, title or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property, and are accordingly entitled to the Specific Property pursuant to Title 21, United States Code, Section 853(n)(6)(A).

2. The United States Marshals Service (the “USMS”) and/or its designee shall transfer the remainder of the Specific Property—which are the Claimed Funds, in the amount of approximately \$60,000— in a manner consistent with the UFMS Vendor Request Form to be completed by the Bibbo Petitioners, through their counsel, Michael Manoussos, Esq.

3. This Stipulation and Order constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Stipulation and Order shall be enforceable.

4. The Bibbo Petitioners hereby agree to waive all rights to appeal or otherwise challenge or contest the validity of this Stipulation and Order.

5. In the event that the remainder of the Specific Property (the Claimed Funds) are transferred to the Bibbo Petitioners, they agree to hold harmless the United States of America (“USA”), the Department of Justice (“DOJ”), the United States Attorney’s Office – SDNY (“USAO”), the USMS, and the Federal Bureau of Investigation (“FBI”), or any and all employees, officers, and agents of the USA, the DOJ, the USAO, the USMS, and the FBI, as well as local and state agents, officers or employees, past and present, from any and all claims arising from any acts, incidents, or occurrences in connection with the seizure and/or possession of the Specific Property, including but not limited to any third-party claims of ownership of the Specific Property.

6. The Bibbo Petitioners agree that they are not entitled to attorney's fees or an award of any other costs associated with their claim for the Specific Property.


7. The Court shall retain jurisdiction in this matter to take additional action and enter further orders as necessary to implement and enforce this Stipulation and Order.

8. The signature page of this Stipulation and Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. The signature page may be transmitted by fax or by electronic file in PDF format, and such signatures shall be deemed equivalent to valid originals.

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By:


KATHERINE REILLY
NOAH SOLOWIEJCZYK
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007
Tel.: (212) 637-6521/2473

03/23/20

DATE

PAUL BIBBO

By:

PAUL BIBBO

DATE

NADINE BIBBO née LUGO

By:

NADINE BIBBO née LUGO

DATE

By:

MICHAEL MANOUSSOS, ESQ.
(Counsel for the Petitioners)
80-02 Kew Gardens Road, Suite 901
Kew Gardens, New York 11415
Tel.: (718) 454-8888

DATE

SO ORDERED:

HONORABLE KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE

DATE

AGREED AND CONSENTED TO:

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

By:

KATHERINE REILLY
NOAH SOLOWIEJCZYK
Assistant United States Attorney
One St. Andrew's Plaza
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DATE

PAUL BIBBO

By:



PAUL BIBBO

3/21/20
DATE

NADINE BIBBO née LUGO

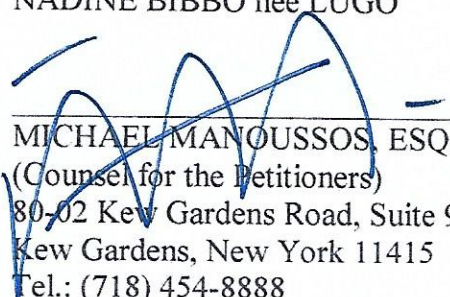
By:



NADINE BIBBO née LUGO

3/21/20
DATE

By:



MICHAEL MANOUSSOS, ESQ.
(Counsel for the Petitioners)
80-02 Kew Gardens Road, Suite 901
Kew Gardens, New York 11415
Tel.: (718) 454-8888

3-23-20
DATE

SO ORDERED:



HONORABLE KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE

March 23, 2020
DATE